

### **REMARKS**

The Office Action mailed September 26, 2005 has been carefully reviewed along with the references cited therein. In the Office Action, the Examiner rejected claims 1, 3-8, 17, and 20 under 35 U.S.C. § 102(e) as being anticipated by Milo (U.S. Patent No. 6,580,355). Claims 2, 18, and 19 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner indicated that claims 9-16, 21, and 22 are allowed. Applicant appreciates the indication of allowable subject matter.

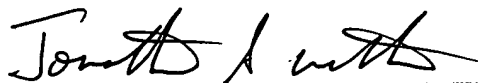
To apply a reference under § 102(e), the inventive entity of the application must be different than that of the reference. MPEP § 702(a)(II). The application names Thomas K. Milo as the inventor. The reference also names Thomas K. Milo as the inventor. Applicant submits with this response a Rule 132 declaration in support of a showing that the reference is not "by another" as required by § 102(e). Accordingly, Applicant requests that the Examiner remove the rejection.

### CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application are now in condition for allowance. Accordingly, an early indication of the same is earnestly solicited. In any event, should the Examiner consider personal contact advantageous to the disposition of this case, he is encouraged to telephone the undersigned at the number listed below.

Respectfully submitted,

FAY, SHARPE, FAGAN,  
MINNICH & McKEE, LLP



John P. Cornely, Reg. No. 41,687  
Jonathan A. Withrow, Reg. No. 54,548  
1100 Superior Avenue, Seventh Floor  
Cleveland, OH 44114-2579  
216-861-5582

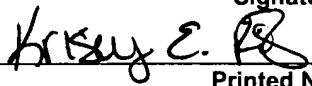
December 22, 2005  
Date

---

#### CERTIFICATE OF MAILING

Under 37 C.F.R. § 1.8, I certify that this Amendment is being

- ☒ deposited with the United States Postal Service as First Class mail, addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.
- ☐ transmitted via facsimile in accordance with 37 C.F.R. § 1.8 on the date indicated below.
- ☐ deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10, addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

<b>Express Mail Label No.:</b>	<b>Signature</b> 
<b>Date</b> <b>December 22, 2005</b>	<b>Printed Name</b> <b>Krisey E. Riley</b>

N:\TKMZ\200008\US\ker0000249V001.doc